



STATE OF INDIANA

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September 8, 2015

Mr. Kenneth W. Fudge
3445 Jonathon Moore Pike
Columbus, IN 47201

*Re: Formal Complaint 15-FC-212; Alleged Violation of the Open Door Law by
the Columbus City Council*

Dear Mr. Fudge,

This advisory opinion is in response to your formal complaint alleging the Columbus City Council ("Council") violated the Open Door Law ("ODL"), Ind. Code § 5-14-3-1 *et seq.* The Council has responded to your complaint via Mr. Jeffrey Logston, Esq. His response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on July 27, 2015.

BACKGROUND

Your complaint received on July 2, 2015 alleges the Columbus Indiana City Council violated the Open Door Law by holding a meeting without proper notice

You assert that the City of Columbus Redevelopment Commission held a public meeting (hereafter referred to as the "CRC meeting") on July 20, 2015. At the CRC Meeting, a quorum of city council members attended. However, the public was never given notice that the Council members' would be in attendance.

You contend that council members received information. Additionally, you allege that a council member made a recommendation to the commission.

On August 11, the Council responded to your complaint. The Council does not dispute that the Council members were at the CRC meeting; however, it alleges that no violation took place because the meeting was a chance gathering. The Council includes documentation stating that the individual members did not have knowledge in-fact that other members would attend.



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ANALYSIS

It is the intent of the Open Door Law (ODL) the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. See Ind. Code § 5-14-1.5-1. Accordingly, except as provided in section 6.1 of the ODL, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. See Ind. Code § 5-14-1.5-3(a).

I have recently addressed this matter in *Opinion of the Public Access Counselor 15-FC-94* and stating when a majority of one governing body attends the meetings of another, dual notice should be posted. That Opinion is hereby incorporated as reference.

Because official action is defined by Ind. Code § 5-14-1.5-2(d)(1) as receiving information, mere attendance would trigger the Open Door Law. There seems to be no dispute from either party about this. The operative matter is whether the City Council intended on attending the CRC meeting as a collective pursuant to their official duties as council members.

The Council has proffered statements from its members refuting any intent to attend as a group. This Office does not take statements under oath or otherwise adjudicate facts or admit testimony into evidence. Therefore I cannot state definitively whether the Council intended to go to the meeting as a group. If it was the intention of the Council to show up as a majority, notice should have been posted. If not, the gathering was merely by chance and permissible without notice under Ind. Code § 5-14-1.5-2(c)(1).

It does appear, however, that the Council is now aware of the perception it may give regardless of intent. It is my sincere hope that the Council is mindful of these considerations in the future to avoid any potential misconceptions.



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Regards,

A handwritten signature in black ink, appearing to read "LHB", is written over a light blue horizontal line.

Luke H. Britt
Public Access Counselor

Cc: Jeffrey Logston, Esq.